

These minutes are a summary of the discussion. The audible recording is available at the following website: <http://bit.ly/T3S7CB>

Planning & Zoning Commission
Mid-Month Meeting Minutes of December 20, 2012
1st Floor North Conference Room - City Hall

Present: Vice-Chairman Jeremy Goldstein, Kristy Carter, Jane Gianvito Mathews, Joe Minicozzi, and Holly P. Shriner

Absent: Chairman Nathaniel Cannady and Paul Smith

Regular Meeting - 4:00 p.m.

Vice-Chairman Goldstein called the meeting to order at 4:00 p.m. and informed the audience of the public hearing process.

Agenda Items

- (1) **Downtown project variance at 15 Banks Avenue. The property owner is Fifteen Banx, LLC. and the property is zoned Central Business District. The property is identified in the Buncombe County tax records as PIN 9648.38-6318. The applicant is seeking variances from development standards found in section 7-8-18 of the UDO pertaining to a proposed addition to an existing building. Planner coordinating review – Alan Glines.**

Associate City Attorney Jannice Ashley explained the procedures for this item which requires the Commission to act as a Board of Adjustment and all testimony needs to be sworn.

City Clerk Magdalen Burleson administered the oath to anyone who anticipated speaking on this matter.

Urban Planner Alan Glines oriented the Commission to the site and said that the applicant is requesting two (2) variances pertaining to an addition to an existing one-story building in the Central Business District (CBD):

- ? Section 7-8-18(f)(5)(b) *“Maximum setback: Zero feet from the right-of-way line. The following exceptions to the maximum setback may be permitted....a setback of up to 20 feet for uses in the district providing courtyard or plaza spaces in the setback area.”*

The addition to the existing building is proposed to be 28 feet from Banks Avenue and 43 feet from the side street of Collier Avenue; and

- ? Section 7-8-18(f)(7) which states that *‘the minimum height for new structures in the Central Business District will be two stories.’*

The additions to the building are proposed to be one-story, matching the existing building.

The applicant is proposing to renovate an existing one-story concrete block structure, expanding at the back side of the building to provide kitchen space, storage and cooking grill for a new restaurant. The design (scale, setback, height, orientation, details) of the addition are tied to the existing building and reflect its features.

The applicant proposes to construct a covered outdoor dining patio on the east side of the building. The rear kitchen addition is to be constructed using existing walls and flooring of a section that was part of a former veterinary use. These changes do not meet UDO definitions for a 'renovation' since both the walls and roof will need to be altered. The proposed expansion area is smaller than the existing footprint.

In addition, the existing building is setback about 36 feet from Banks Avenue and about 44 feet from Collier Avenue (the corner side street). Additional seating and a children's play space are planned between the street and the building facades to the east, south, and west.

This project is considered a Level I review pursuant to Section 7-5-9.1 of the UDO.

Other Considerations:

- ✍ The total building size is proposed to be 5,130 s.f. which includes the original enclosed building (2,624 s.f.), the existing walled area formerly used for the outdoor veterinary use (1,035 s.f.), and the outdoor dining patio (1,143 s.f.) and barbeque pit and other storage (328 s.f.).
- ✍ Per the review process in Section 7-5-9.1(b)(10), the Downtown Commission provides a recommendation on all variance requests considered by the Planning & Zoning Commission. The Downtown Commission Design Review Subcommittee met at the site on December 3, 2012, and after reviewing the project plans recommended support for the variance request.
- ✍ Since both variance requests are tied to the building addition they will be described together for the review of the findings.

FINDINGS:

Conclusion 1 - There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.

Test 1 - If made to comply with the provisions of the ordinance, the property owner cannot make reasonable use of the property.

Older commercial structures often have to be adapted in order to be usable for a new business venture. Part of this adaptation may include renovation and additions when there is insufficient space for the proposed new activity within the existing building. The comprehensive plan of the City encourages the adaptive reuse of older structures, especially historic structures because it protects the character of the community and is a sustainable practice. The existing building is non-conforming to both setback and height standards and is a 'grandfathered' building.

When changes to the UDO were adopted based on the downtown master plan there was no provision made for additions to existing buildings. The proposed restaurant and its program for indoor and outdoor dining will not physically fit into the existing enclosed structure. The expansion is utilizing the existing partially enclosed area (formerly built for the veterinary use) and proposes to add an outdoor dining space (considered an accessory structure and commonly associated with downtown restaurants). These are needed for the successful implementation of the restaurant's business plan. Similarly, a two-story addition would be impractical for a kitchen layout and operation.

This building has been vacant for an estimated 10 years or more and without the requested variances this building is impractical for adaptive reuse and may remain vacant or be a candidate for demolition.

Test 2 - The hardship of which the applicant complains results from unique circumstances related to the applicant's land.

The existing building was built around 1957 and has a large setback and is also single-story. This area of downtown was outside of the central business district zone until about 2001 when the CBD was expanded. The area had a number of industrial uses, automobile dealerships and other commercial activities. The subject property was used as veterinary office.

The current pattern of development is mixed with some buildings exhibiting a zero setback and two-stories and others with wider setbacks and single story construction. This area is now attracting a large amount of new business uses that are more similar to other areas of the downtown or the river district. The older structures however are more challenged in meeting downtown development standards.

Test 3 - The hardship is not the result of the applicant's own actions.

The existing one-story building was built in 1957 and was set back from the street to allow for vehicular access by patrons. The addition at the rear of the building is not a stand-alone building and is utilizing a partially enclosed existing structure. The addition is tied to the existing structure and is not a stand-alone project and whose design is not the result of the applicant's own actions.

Conclusion 2 - The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.

Re-use and renovation of existing buildings is a goal of the downtown master plan, the adopted sustainability policy, and the downtown design guidelines. The project proposes to retain the existing building which while not a contributing structure within the downtown historic district (National Register District) has some interesting mid-20th century design features and the site contains existing trees worth preserving. The renovation and expansion will utilize the style of the existing building and with overall enhancements will provide a new economic life for the dilapidated structure. In order to adapt the existing site and building for a new proposed use, an addition is required. The addition and renovation is in scale with the setback and height of the existing building and therefore is in harmony with the ordinance and with the established character of the area.

Conclusion 3 - The granting of the variance secures the public safety and welfare and does substantial justice.

The requested variances to height and setback will not compromise public safety or welfare in any way, nor do they impact another property owner's use of their property. A building addition is a reasonable expectation to the reuse of a historic structure and by granting the variances in order to support other goals substantial justice is assured.

The Downtown Commission design review subcommittee reviewed and supports the variance requests. Staff recommends approval of the requested variances:

- 1) Allowing a one-story addition (where two-stories are normally required for new construction); and
- 2) Extending the setback to 43 feet for the addition along Collier and 28 feet for the addition along Banks

Staff finds this request to be reasonable and support the goals of downtown and other City adopted plans.

Mr. Aaron Wilson, representing the applicant, was available for questions and asked for support of the variance request.

At 4:16 p.m., Vice-Chairman Goldstein opened the public hearing and when no one spoke, he closed the public hearing at 4:16 p.m.

Based on the above findings and the analysis provided in the report, Mr. Minicozzi moved to recommend approval of the variance at 15 Banks Avenue allowing a one-story addition (where two-stories are normally required for new construction). This motion was seconded by Ms. Shriner and carried unanimously by a 5-0 vote.

Based on the above findings and the analysis provided in the report, Mr. Minicozzi moved to recommend approval of the variance at 15 Banks Avenue extending the setback to 43 feet for the addition along Collier and 28 feet for the addition along Banks. This motion was seconded by Ms. Carter and carried unanimously by a 5-0 vote.

(2) Potential wording amendment for 7-8-18 of the UDO, Central Business District development standards to define two-story development requirements and provide options for single-story additions to existing buildings. Planner coordinating review – Alan Glines.

Urban Planner Alan Glines stressed that he is bringing this forward for discussion purposes only prior to bringing an actual ordinance amendment forward. He said that this is the consideration of an amendment to Chapter 7-8-18 of the Unified Development Ordinance (UDO) in the Central Business District Development Standards to define two-story development requirements and provide options for single-story additions to existing buildings.

He said that in the past few years there has been continued interest in downtown Asheville with many new businesses utilizing existing structures. Additions have increasingly been a part of renovating existing buildings for a new use. Staff has observed that sometimes these additions do not comply with all of the regulations covering new construction and several projects have made application for variances from some key CBD standards. Many involved in the review of the variances have felt that such proposals should have an easier alternative since the additions are practical and assist in the vitality and growth of downtown. Existing structures are grandfathered in by definition and in some cases do not meet all of the UDO standards for downtown. Additions are an important part of extending the economic life of structures and in some cases protecting historic buildings in need of renovation. These projects often have difficulty meeting:

1. Current requirements for 'two-story' new construction related to building height; and
2. Specific setback standards, since in some cases the existing building may not comply or the addition has a specific function within an existing building that is not flexible in its placement .

After evaluation with the Downtown Commission's Design Review Subcommittee, the following amendments are being proposed to address these two common scenarios and provide clarification regarding what is expected in the Central Business District:

Item 1. The current code describes a minimum requirement of two stories for new construction. This proposed wording change will add a height dimension in feet (a minimum of 20 feet).

Item 2. Clarifications for minimum height requirements for new construction: The second story need not cover the entire building floorplate, instead the second story would be allowed to cover just a portion of the first floor or be built as a single-story building so long as the façade meets the proposed minimum height standard and is fenestrated to appear to be two stories.

Item 3. This proposed amendment will offer relief for smaller one-story additions to existing buildings or additions that are small in relation to the entire building. Other additions that fall outside of these provisions may be considered by the Planning and Zoning Commission following the usual process for variances, which includes a recommendation from the Downtown Commission.

Item 4. For new construction in downtown, a two-story (or more) *street wall* is required.

Item 5. Existing buildings in downtown are grandfathered in and in some cases do not meet some design criteria adopted for the CBD. When additions are proposed they are not always attached at the front side of the building but vary depending on a variety of factors such as the orientation of the existing building, the purpose of the addition, or the internal configuration of the existing building. Because of these circumstances it is difficult to anticipate all of the setback possibilities. As was noted before, additions are common and even encouraged for the continued vitality of downtown and for the longterm viability of individual buildings. This proposed amendment will provide that needed flexibility for additions to existing buildings.

While Mr. Glines reviewed the amendments/clarifications, members of the Commission discussed and raised several questions/comments which Mr. Glines addressed or agreed to do further research on, some being, but are not limited to: the amendment seems to be getting away from the original issue of trying to adapt an existing historic one story building; is the second story façade the direction we want in the downtown urban core; is a mezzanine or atrium classified as a story under the Building Code; is there an inventory of one-story buildings in downtown; concern of definition of "enhance" with regard to accessory structures being allowed to enhance activity; cost for bringing a variance through the process; can the GIS produce a report of building stories; why is there a Central Business District in west Asheville and should we develop a zone for that area that is different than the Central Business District in downtown; can we extend an invitation to someone from the Downtown Commission Design Review Subcommittee to the Planning & Zoning Commission meeting when this item comes before them for approval; and need further language clarification about proposed additions being on the same parcel.

Planning & Development Director Judy Daniel said that Mr. Glines will research and discuss with the Downtown Commission Design Review Committee questions raised, and bring this back to the Commission in February.

Other Business

Mr. Minicozzi said that he has done some preliminary review of the zoning map and has found some conflicting zonings. He will be reporting his findings to the City Council Planning & Development Committee on January 15 at 3:30 p.m. in the First Floor North Conference Room if any of the Commissioners would like to attend. Planning & Development Director Judy Daniel said that when Mr. Minicozzi is ready to present it to the Commission, a mid-month meeting might be the appropriate for that report.

Ms. Daniel said that on January 8 she will presenting Council with a report on an Request for Qualifications for form based code consulting services.

Vice-Chairman Goldstein announced the next formal meeting of the Planning & Zoning Commission on January 2, 2013, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

Adjournment

At 5:09 p.m., Ms. Shriner moved to adjourn the meeting. This motion was seconded by Ms. Mathews and carried unanimously by 5-0 vote.